



Practitioner's Docket No. 701039-051580

PATENT

1744
Gfsw

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: T.E. Perry et al.
Application No.: 10/056,991 Group No.: 1744
Filed: 01/25/2002 Examiner: W.H. Beisner
For: APPARATUS AND METHOD FOR EVALUATING TISSUE
ENGINEERED BIOLOGICAL MATERIAL

CERTIFICATE OF MAILING/TRANSMISSION (37 C.F.R. § 1.8(a) and 1.10)

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1. Transmittal Form (1 pg.);
2. Copy – Notice of Non-Compliant Amendment (37 CFR 1.121) (3 pp.);
3. Reply to Notice of Non-Compliant Amendment (9 pp.);
4. Return Receipt Postcard;

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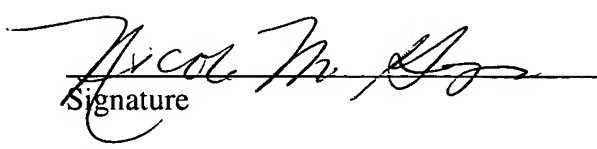
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Date: June 3, 2004


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**TRANSMITTAL
FORM**

(to be used for all correspondence after initial filing)

Application Number	10/056,991
Filing Date	01/25/2002
First Named Inventor	T.E. Perry
Art Unit	1744
Examiner Name	W.H. Beisner
Attorney Docket Number	701039-051580

Total Number of Pages in This Submission

ENCLOSURES (Check all that apply)

<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance Communication to Group
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input checked="" type="checkbox"/> Amendment/Reply	<input type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Terminal Disclaimer	<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Request for Refund	Copy - Notice of Non-Compliant Amendment; Certificate of Mailing; Return Receipt Postcard.
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> CD, Number of CD(s) _____	
<input type="checkbox"/> Certified Copy of Priority Document(s)	Remarks	
<input type="checkbox"/> Response to Missing Parts/Incomplete Application	The Commissioner is authorized to charge fee deficiencies or credit overpayments to the NIXON PEABODY LLP Deposit Account No. 50-0850.	
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	David S. Resnick NIXON PEABODY LLP, 100 Summer Street, Boston, MA 02110
Signature	
Date	6/3/04

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below. Washington, DC 20231 on this date:

Typed or printed name	Nicole M. Gignac
Signature	
Date	6/3/2004

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/056,991	01/25/2002	Tjorvi Ellert Perry	701039-051580	3545

7590 05/19/2004

DAVID S. RESNICK
NIXON PEABODY LLP
100 SUMMER STREET
BOSTON, MA 02110-2131



EXAMINER

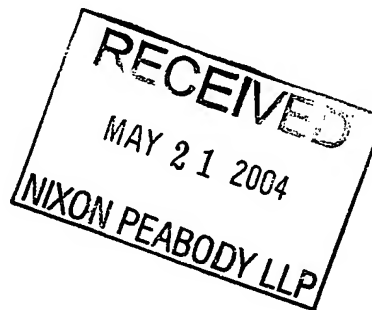
BEISNER, WILLIAM H

ART UNIT PAPER NUMBER

1744

DATE MAILED: 05/19/2004

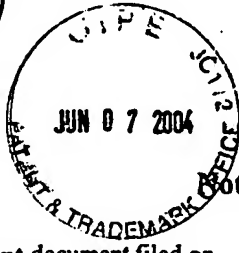
Please find below and/or attached an Office communication concerning this application or proceeding.





UNITED STATES PATENT AND TRADEMARK OFFICE

10056991
COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1
ALEXANDRIA, VA 22313-1
www.uspto



Paper No.

Notice of Non-Compliant Amendment (37 CFR 1.121)

The amendment document filed on 5-6-4 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121, as amended on June 30, 2003 (see 68 Fed. Reg. 38611, Jun. 30, 2003). In order for the amendment document to be compliant, correction of the following item(s) is required. Only the corrected section of the non-compliant amendment document must be resubmitted (in its entirety), e.g., the entire "Amendments to the claims" section of applicant's amendment document must be re-submitted. 37 CFR 1.121(h).

THE FOLLOWING CHECKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
- ☐ A. Amended paragraph(s) do not include markings.
 - ☐ B. New paragraph(s) should not be underlined.
 - ☐ C. Other _____
- ☐ 2. Abstract:
- ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
 - ☐ B. Other _____
- ☐ 3. Amendments to the drawings: _____
- ☒ 4. Amendments to the claims:
- ☐ A. A complete listing of all of the claims is not present.
 - ☒ B. The listing of claims does not include the text of all claims (including withdrawn claims)
 - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified.
 - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
 - ☐ E. Other: _____

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP Sec. 714 and the USPTO website at <http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/officeflyer.pdf>.

If the non-compliant amendment is a **PRELIMINARY AMENDMENT**, applicant is given **ONE MONTH** from the mail date of this letter to supply the corrected section which complies with 37 CFR 1.121. Failure to comply with 37 CFR 1.121 will result in non-entry of the preliminary amendment and examination on the merits will commence without consideration of the proposed changes in the preliminary amendment(s). This notice is not an action under 35 U.S.C. 132, and this **ONE MONTH** time limit is not extendable.

If the non-compliant amendment is a reply to a **NON-FINAL OFFICE ACTION** (including a submission for an RCE), and since the amendment appears to be a *bona fide* attempt to be a reply (37 CFR 1.135(c)), applicant is given a **TIME PERIOD** of **ONE MONTH** from the mailing of this notice within which to re-submit the corrected section which complies with 37 CFR 1.121 in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD ARE AVAILABLE UNDER 37 CFR 1.136(a).**

If the amendment is a reply to a **FINAL REJECTION**, this form may be an attachment to an Advisory Action. The period for response to a final rejection continues to run from the date set in the final rejection, and is not affected by the non-compliant status of the amendment.

Legal Instruments Examiner (LIB)

Telephone No.



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CERTIFICATE OF MAILING (37 C.F.R. SECTION 1.8(a))

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5/3/04
Date

Nicole M. Gignac

(type or print name of person mailing paper)

Signature of person mailing paper

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

AMENDMENT

Dear Sirs:

In response to the Office Action dated February 2, 2004, please find:

Amendments to the claims begin on page 2.

Remarks begin on page 7.

05/17/2004 ASINOLET 00000001 500850 10056991
S>le Ref: 00000001 OAH: 500850 10056991
01 FC:2201 43.00 DA
02 FC:2202 9.00 DA



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Date 6/3/2004

Nicole M. Gignac

(type or print name of person mailing paper)

Nicole M. Gignac
Signature of person mailing paper

MAIL STOP AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY TO NOTICE OF NON-COMPLIANT AMENDMENT (37 CFR 1.121)

In reply to the Notice of Non-Compliant Amendment mailed December 24, 2003, a copy of which is submitted herewith, Applicants respond as follows.

A full set of claims begins on page 2 of this paper.

Remarks/arguments begin on page 9 of this paper.